



PHONE: 717-783-1610  
TOLL FREE: 1-800-932-0936

**STATE ETHICS COMMISSION**  
FINANCE BUILDING  
613 NORTH STREET, ROOM 309  
HARRISBURG, PA 17120-0400

FACSIMILE: 717-787-0806  
WEBSITE: [www.ethics.pa.gov](http://www.ethics.pa.gov)

April 19, 2019

CONFIDENTIAL

Yesenia Bane  
c/o Matthew H. Haverstick, Esq  
Kleinbard LLC  
1717 Arch Street, 5<sup>th</sup> Floor  
Philadelphia, PA 19103

**Re:** Bane, 18-014

Dear Ms. Bane,

The State Ethics Commission has reviewed allegations following the receipt of a signed sworn complaint that alleged you violated provisions of the Public Official and Public Employee Ethics Act, 65 Pa.C.S. §1103(a):

When, in your public position as Deputy Chief of Staff to Pennsylvania Governor Tom Wolf, you used the authority of your public position and/or confidential information received through your position for the benefit of yourself, a member of your immediate family, and/or a business with which you and/or a member of your immediate family are associated when you participated in meetings, discussions, and decision making events concerning pending/ongoing natural gas/pipeline projects pending before the Pennsylvania Department of Environmental Protection, including but not limited to the Mariner II Pipeline Infrastructure Project, at a time when your husband, John Bane, served as a lobbyist to principals with direct interest in the pending/ongoing natural gas/pipeline projects.

Following a full and extensive investigation into the above allegations and a thorough evaluation of all information and documentation obtained in this matter, the Commission has determined that there is a lack of sufficient evidence to establish two of the required elements of a violation of Section 1103(a)--specifically, (1) a use of the authority of your public position to benefit your husband and/or a business with which he is associated with; or (2) a private pecuniary benefit to your husband and/or a business with which he is associated. As such, the Commission has terminated its investigation into this matter. However, your position, coupled with the employment of your husband as an industry lobbyist, created a perception that your actions in fulfilling the Governor's policy agenda was a way for you to financially benefit your

husband and/or his employers.

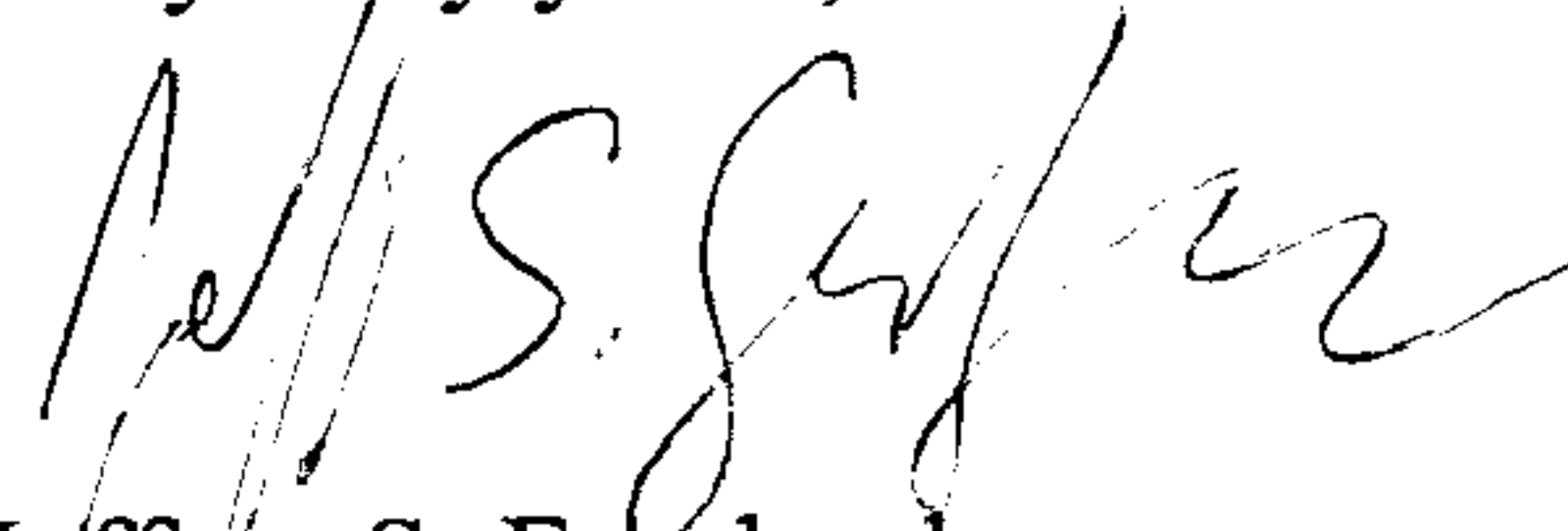
Under Pennsylvania law, the Commission bears the burden of proving an Ethics Act violation. That burden is “clear and convincing proof.” Clear and convincing proof is evidence so clear, direct, weighty, and convincing that it enables the trier of fact to come to a clear conviction, without hesitation, of the truth of the precise facts at issue. *See G.L. v. State Ethics Comm’n*, 17 A.3d 445, 453 (Pa. Cmwlth. 2011).

The evidence produced during the investigation did not meet the requisite burden of proof. There is insufficient evidence of motivated, directed action on your part to obtain a private pecuniary benefit for your husband and/or his employers. Instead, the evidence gathered points to you acting as a liaison and fulfilling the Governor’s policy agenda. The evidence gathered included memos dated September 13, 2016 and December 30, 2016, acknowledging that your husband was a lobbyist and you were not to be involved with any matters involving his employers. These memos were submitted to then current Chief of Staff Mary Isenhour and General Counsel Denise Smyler. The investigation did not produce sufficient evidence, in contradiction to the memos, that you took any official action and/or used confidential information that financially benefitted your husband and/or his employers.

Based solely upon the documentation made available and the numerous witness interviews conducted by SEC investigators, the Investigative Division has concluded that it would not be able to meet its burden that a violation of the Ethics Act occurred.

The Investigative Division’s termination of the investigation, as outlined above, concludes this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeffery S. Frankenburger", written over a horizontal line.

Jeffery S. Frankenburger  
Assistant Counsel

JSF/hm